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Calendar No. 797

99TH CONGRESS
2d Session

SENATE

REPORT
99-383

ORIGINAL HR 212 COMPLETED 8

LAND CONVEYANCE, PERSHING COUNTY WATER CONSERVATION DISTRICT, NEVADA

AUGUST 7 (legislative day, AUGUST 4), 1986.—Ordered to be printed

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Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1772]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1772) to authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill as amended do pass.

The amendment is as follows:

On page 1, strike all after the word "convey," on line 3 through the word "consideration" on line 4 and insert in lieu thereof the following: "subject to all existing rights and interests of third parties upon, in and over the property, and upon payment of administrative costs incurred in making the transfer, not to exceed $40,000".

PURPOSE

As ordered reported, S. 1772 would provide for the conveyance by the Secretary of the Interior to the Pershing County Water Conservation District of approximately 30,000 acres of land located in Lander County, Nevada.

BACKGROUND

The lands in question were acquired by the Bureau of Reclamation in 1915–16 in connection with the Humboldt Project at a purchase price of $214,500. The cost of the purchase was included as a project cost and has subsequently been repaid to the Treasury by

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the project water users. The land is currently being used as a community pasture under a lease from the Bureau of Reclamation to the Pershing County Water Conservation District. Although the lands are not necessary to the operation of the Humboldt Project, they are of vital interest to the agricultural community.

Customarily, when retention of Federal property is found to be no longer necessary for project purposes, it is declared "surplus" and is made available for use by other Federal agencies, or failing other Federal interest, the property is then disposed of by the General Services Administration. Area residents are concerned that they could lose access to the lands if they were disposed of through the usual GSA process. This would be a hardship to the local agricultural community. In addition, Lander County has been ordered by the Nevada State Department of Environmental Protection to repair and enlarge sewage treatment facilities servicing the adjacent community of Battle Mountain. The county plans to locate lagoons covering approximately 350 acres on a portion of the lands conveyed.

The current estimate of value of the 30,000 acres is from $2 to $4 million.

LEGISLATIVE HISTORY

S. 1772 was introduced on October 17, 1985 by Senators Hecht and Laxalt. A public hearing was held before the Subcommittee on Water and Power on April 17, 1986 (S. Hrg. 99-607) at which Commissioner Dale Duvall of the Bureau of Reclamation stated that the Department of the Interior would not object to enactment of S. 1772. Similar legislation was introduced in both the House and Senate (H.R. 2551 and S. 1908) in the 98th Congress but no action was taken. Similar legislation (H.R. 5652 and S. 2203) was introduced in the 97th Congress where H.R. 5652 was reported (H. Rept. No. 97-770) by the House Committee on Interior and Insular Affairs on August 19, 1982. Congress adjourned before further action.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on July 30, 1986, by a vote of a quorum present, recommended that the Senate pass S. 1772, if amended as described herein.

The rollcall vote on reporting the measure was 16 yeas, 2 nays, as follows:

YEAS	NAYS
Mr. McClure	Mr. Metzenbaum *
Mr. Hatfield *	Mr. Bradley *
Mr. Weicker *	
Mr. Domenici *	
Mr. Wallop *	
Mr. Warner	
Mr. Murkowski	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	

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Mr. Johnston
Mr. Bumpers
Mr. Ford
Mr. Melcher
Mr. Bingaman
Mr. Rockefeller

* Indicates votes by proxy.

COMMITTEE AMENDMENT

The Committee adopted an amendment which provides that the conveyance be made subject to valid existing rights. Testimony during the hearing on S. 1772 indicated that there are several Federal rights-of-way administered by the Bureau of Land Management which traverses the property to be conveyed.

In addition, the Committee amendment provides that the Pershing County Water Conservation District would bear the administrative costs associated with the transfer. The Committee notes that the amendment provides for a ceiling of $40,000 for administrative costs to be paid by the district and expects the Department to take all reasonable steps to cooperate with the district to minimize the administrative costs of the transfer.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has received S. 1772, a bill to authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District, as ordered reported by the Senate Committee on Energy and Natural Resources on July 30, 1986.

S. 1772 would require the Secretary of the Interior to convey property currently managed by the Bureau of Reclamation to the Pershing County Water Conservation District. The land would be conveyed without monetary consideration except for payment of administrative costs incurred in making the transfer, not to exceed $40,000. All existing rights and interests of third parties upon, in and over the property would be retained.

Based on information obtained from the Bureau of Reclamation, we estimate that enactment of this bill would result in no cost to the federal government.

Assuming that the bill is enacted in fiscal year 1987, we estimate that the Pershing County Water Conservation District would incur a cost of approximately $10,000 in 1987 for administrative costs associated with the land conveyance. Enactment of this bill would otherwise result in no cost to state and local governments.

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If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1772.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected as a result of enactment and implementation of S. 1772. Therefore, there would be no impact on personal privacy.

Other than paperwork associated with the transfer of property little, if any, additional paperwork would result from the enactment of S. 1772.

EXECUTIVE COMMUNICATIONS

On December 2, 1985, the Committee requested legislative reports on S. 1772 from the Department of the Interior and Office of Management and Budget. The legislative reports have not yet been received. The Committee will have these reports printed in the Congressional Record when they are received. Set forth is the statement presented by Acting Assistant Commissioner Joseph Marcotte, Bureau of Reclamation, at the hearing before the Subcommittee on Water and Power.

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TESTIMONY OF
ACTING ASSISTANT COMMISSIONER JOSEPH MARCOTTE
BEFORE THE SUBCOMMITTEE ON WATER AND POWER
OF THE ENERGY AND NATURAL RESOURCES COMMITTEE
UNITED STATES SENATE
ON S. 1772, A BILL
"TO AUTHORIZE AND DIRECT THE SECRETARY OF THE INTERIOR
TO CONVEY CERTAIN REAL PROPERTY TO
THE PERSHING COUNTY WATER CONSERVATON DISTRICT"

Mr. Chairman, thank you for the opportunity to testify before you today on S. 1772, a bill "To authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water District." S. 1772 would direct the Secretary of the Interior to convey, without monetary consideration, to the Pershing County Water Conservation District (District), all right, title, and interest of the United States in and to specified land in Lander County, Nevada. The Secretary would be prohibited from making the conveyance unless the District fulfills all existing contracts and repayment obligations to the United States and continues to protect water rights for the Humboldt Project. While we would not object to enactment of S.1772, we believe some specific amendments are necessary.

The approximately 30,000 acres, known as the Aldous-Filippini Ranch, that are the subject of this legislation were originally purchased by the Bureau of Reclamation to acquire water rights for the Humboldt Project. The water rights have since been conveyed to the reservoir formed by Rye Patch Dam. The original purchase cost of these lands was included in the repayment contract between the United States and the District.

Management of these lands along with the operation of the reclamation project lies with the District. The District leases the Aldous-Filippini Ranch from the United States and operates the Battle Mountain community pasture on this tract.

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The pasture has become a vital economic facet of the livestock operations in Lovelock Valley. It has been a boon to smaller units by providing them with summer grazing and allowing them to have livestock operations which would otherwise be impossible. About 25 percent of the District's farmers have no outside grazing and would not be livestock producers were it not for the District's management of the community pasture.

Moreover, the District's repayment ability, as well as its economy, is enhanced by the community pasture operation. If these lands were no longer available for use as community pasture, the livestock operations of ranches presently using the lands would be disrupted and, at a minimum, some smaller operators may be forced out of business. This could affect the repayment capacity of the District.

The fair market value of the land and accompanying water rights were included in the project costs to be repaid by the District. These costs have been fully repaid and, of the subsequent loans made against project equity, all but approximately $197,000 have been repaid. However, under Reclamation Law, a water user's rights in a project is limited to the beneficial use of water. Article No. 15(a) of the contract between the United States and the District for Rehabilitation and Betterment of Works of the Humboldt Project, executed August 22, 1975, clearly states, "...title to the Project shall be and remain in the name of the United States until otherwise provided by the Congress, notwithstanding the fact of full payment of the Contractor's obligations to the United States." The District has paid for a right to the beneficial use of water, but has not secured a right to use the lands.

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Because the pasture is of such importance to the district, it has made a great financial investment in the lands. As conveyance would not adversely affect the Humboldt Project, we would not object to the legislation authorizing conveyance of the land.

However, we have concerns with issues not addressed in the bill. First, we believe the district ought to bear the administrative costs of any transfer. These costs would include the costs of conducting a survey, and preparing descriptions and a transfer document. Further, there are several Federal rights-of-way administered by the Bureau of Land Management which traverse the land. Therefore, we recommend that the bill be amended to require that conveyance be made subject to valid existing rights. We would be glad to provide appropriate language to the Committee which would resolve these issues.

Mr. Chairman, that concludes my testimony. I would be happy to answer any questions the Committee might have.

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CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill, S. 1772, as reported.

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